

REMARKS / ARGUMENTS

Reconsideration of the application as amended is respectfully requested.

Before entry of the present amendment, Claims 3-6, 8, 9, and 16-29 were pending. The claims directed to Fig. 2 (Claim 24), Fig. 4b (Claim 25), Fig. 5a (Claim 27) and Fig. 5b (Claim 28) are subject to an election / restriction as indicated by the examiner. Claims 24-28 have been canceled without prejudice from the claim series, therefore, the necessity for an election / restriction is removed.

Claim 6 has been amended to include the transition "comprising" that was inadvertently omitted in the previous response.

Previously, Claims 3-6, 8 and 9 were rewritten as separately independent claims, including the limitations of the base claims.

Furthermore, new independent Claims 16 and 17 have been added, disclosing unanticipated and non-obvious limitations over the prior art cited by the examiner. Claims 16 and 17 disclose an enclosed container having a top, a base and a central portion, the container having a selectively openable and returnably resilient aperture, a top portion (Claim 16) or a base portion (Claim 17) having a perimeter encircling a concavity of the aperture, and at least one food item. Nothing in the prior art anticipates or renders this combination of elements obvious. As such, Claims 16 and 17 are also patentably distinguishable over the prior art cited.

Claims 18-24 and 29 are multidependent claims dependent from one or more of the independent Claims 3-6, 8, 9, 16 or 17, or all of the Claims 3-6, 8, 9, 16 and 17.

The appropriate fee accompanied the previous response.

Therefore, in view of foregoing amendments and clarifications, the applicant submits that allowance of the present application and all remaining claims, as amended, is in order and a formal Notice of Allowance is respectfully requested at the earliest possible date.

Respectfully submitted,

John D. Gugliotta, P.E., Esq.
Registration No. 36,538

The Law Offices of John D. Gugliotta
202 Delaware Building
137 South Main Street
Akron, OH 44308
(330) 253-5678
Facsimile (330) 253-6658